

Department of Defense

208.404-70

exceeding the simplified acquisition threshold.

(ii) When a schedule lists both foreign and domestic items that will meet the needs of the requiring activity, the ordering office must apply the procedures of part 225 and FAR part 25, Foreign Acquisition. When purchase of an item of foreign origin is specifically required, the requiring activity must furnish the ordering office sufficient information to permit the determinations required by part 225 and FAR part 25 to be made.

(b) *Ordering procedures for optional use schedules—*

(2) *Orders exceeding the micro-purchase threshold but not exceeding the maximum order threshold.* The procedures at FAR 8.404(b)(2), regarding review of catalogs or pricelists of at least three schedule contractors, do not apply to orders for services exceeding \$100,000. Instead, use the procedures at 208.404-70.

(3) *Orders exceeding the maximum order threshold.*

(i) For orders for services exceeding \$100,000, use the procedures at 208.404-70 in addition to the procedures at FAR 8.404(b)(3)(i).

(7) *Documentation.* For orders for services exceeding \$100,000, use the procedures at 208.404-70 in addition to the procedures at FAR 8.404(b)(7).

(S-70) See related information at PGI 208.404.

[56 FR 36306, July 31, 1991, as amended at 67 FR 65508, Oct. 25, 2002; 69 FR 63327, Nov. 1, 2004; 70 FR 29642, May 24, 2005]

208.404-1 Mandatory use.

The DoD will not be a mandatory user of any schedule unless individual DoD activities elect to provide annual requirements estimates to GSA and become mandatory users. Examples of areas where this approach may be applied are:

- (1) Group 68—gases and chemicals;
- (2) Group 26—pneumatic tires and inner tubes;
- (3) Maintenance, repair, and/or rehabilitation of personal property; and
- (4) “Just-in-time” arrangements for delivery of material directly from vendors to users.

208.404-2 Optional use.

Make maximum use of the schedules. Other procedures may be used if further competition is judged to be in the best interest of the Government in terms of quality, responsiveness, or cost.

208.404-70 Additional ordering procedures for services.

(a) This subsection—

(1) Implements Section 803 of the National Defense Authorization Act for Fiscal Year 2002 (Pub. L. 107-107); and

(2) Also applies to orders placed by non-DoD agencies on behalf of DoD.

(b) Each order for services exceeding \$100,000 shall be placed on a competitive basis in accordance with paragraph (c) of this subsection, unless the contracting officer waives this requirement on the basis of a written determination that—

(1) One of the circumstances described at FAR 16.505(b)(2)(i) through (iii) applies to the order; or

(2) A statute expressly authorizes or requires that the purchase be made from a specified source.

(c) An order for services exceeding \$100,000 is placed on a competitive basis only if the contracting officer provides a fair notice of the intent to make the purchase, including a description of the work the contractor shall perform and the basis upon which the contracting officer will make the selection, to—

(1) As many schedule contractors as practicable, consistent with market research appropriate to the circumstances, to reasonably ensure that offers will be received from at least three contractors that can fulfill the work requirements, and the contracting officer—

(i)(A) Receives offers from at least three contractors that can fulfill the work requirements; or

(B) Determines in writing that no additional contractors that can fulfill the work requirements could be identified despite reasonable efforts to do so (documentation should clearly explain efforts made to obtain offers from at least three contractors); and

(ii) Ensures all offers received are fairly considered; or

(2) All contractors offering the required services under the applicable